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Patent

Attorney's Docket No. 1032221-000056

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Arvo Jonkka)	Group Art Unit: 3651
Application No.: 10/518,456)	Examiner: JOSEPH A. DILLON JR
Filed: December 22, 2004)	Confirmation No.: 7848
For: APPARATUS FOR STORAGE AND)	
UNLOADING OF GRANULAR)	
MATERIAL)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Response to Restriction Requirement is in complete response to the Official Action (Restriction Requirement) mailed on February 14, 2006.

The Examiner has required that the present application be restricted, under 35 U.S.C. 121 and 372, to one of the following two groups of claims:

- **Group I:** Claims 1 to 4 and 6 to 7, drawn to a storage apparatus.
- **Group II:** Claim 5 drawn to a storage apparatus in a stockpile.

Applicant hereby elects, with traverse, the invention defined by the Examiner as Group I, which includes Claims 1 to 4 and 6 to 7. For the reasons set forth below, Applicant requests that the restriction requirement be modified so that the subject matter of Group II will also be examined.

The restriction is traversed. Applicant respectfully notes that during review by the International Searching Authority (ISA), the claims of the PCT application did not receive a lack of unity rejection. Because unity of invention was found for the PCT

application under PCT Rule 13, Applicant submits that the current restriction requirement is improper.

In Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks, 231 U.S.P.Q. 590, 590-1 (E.D. Va 1986), the Court held that a restriction requirement of claims found to have unity runs afoul of Article 27. Article 27 provides in part:

(1) No national law shall require compliance with requirements relating to the form or contents of the international application different from or additional to those which are provided for in this Treaty and the Regulations.

Thus, analogous to the facts of Caterpillar, as this application was filed under 35 U.S.C. 371 and the claims were found to have unity by the International Searching Authority, the U.S. Patent and Trademark Office cannot now require a restriction. Requiring a restriction would run afoul of Article 27. Accordingly, Applicant requests that the claims of Group II be rejoined with the claims of Group I.

Further, Applicant respectfully points out that the subject matter of both groups is closely related, and thus it would not be a serious burden on the Examiner to examine the complete subject matter of the claims together. The claims of the present invention are all directed to the same purpose. In light of the close relationship between the subject matter of all claims, it is believed that a complete search for the subject matter disclosed in all the claims would overlap. Thus, it would not be a serious burden on the Examiner to examine all the matter disclosed in the claims at this time and would result in increased efficiency for all. Therefore, withdrawal of the restriction requirement and rejoinder of the claim of Group II, and further and favorable consideration of all the claims of record on the merits is respectfully requested.

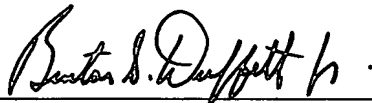
The examination and allowance of the Application are respectfully requested.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL PC (INCLUDING ATTORNEYS
FROM BURNS DOANE SWECKER & MATHIS)

Date: March 7, 2006

By: 

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